

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 )  
                                )  
vs.                         )                           **8:09CR242**  
                                )  
ESTEBAN DANIEL HERNANDEZ, )                           **ORDER**  
                               )  
Defendant.                 )

This matter is before the court on the defendant's motion to continue trial (Doc. 28). A 60-day continuance is requested because the government has not completed Rule 16 discovery. The court finds that a continuance to September 15, 2009 should be granted.

**IT IS ORDERED** that the motion is granted, in part, as follows:

1. The jury trial now set for August 11, 2009 is continued to **September 15, 2009**.
2. In accordance with 18 U.S.C. § 3161(h)(8)(A), the court finds that the ends of justice will be served by granting this continuance and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **August 11, 2009 and September 15, 2009**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act because counsel require additional time to adequately prepare the case, taking into consideration due diligence of counsel and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).
3. The defendant shall file an affidavit or declaration regarding speedy trial, as required by NECrimR 12.1 and/or 12.3, no later than **August 5, 2009**.

**DATED July 30, 2009.**

**BY THE COURT:**

**s/ F.A. Gossett**  
**United States Magistrate Judge**